REMARKS

Claims 27-43 are rejected under 35 U.S.C. 103(a) as being obvious over Boah (US 4,953,511). The Examiner admits that Boah does not disclose a film made of polyester, polyetherimide, polyethersulfone, polysulfone or polyimde. That Examiner states that an anti-corrosion effect is equally achieved with the use of any material in the claimed group, and therefore the claimed invention is obvious. Applicant respectfully disagrees.

The claimed invention is not obvious in view of Boah. The Examiner stated that Applicant had expressed in paragraph 19 of the specification that the claimed materials are art-recognized or obvious equivalents of polyolefin and no criticality or particular purpose is disclosed for the claimed materials. Applicant respectfully disagrees. In paragraph 19 of the specification, Applicant discloses that the thermoplastic film 22 can be made of several different materials. However, paragraph 19 does not state that these materials are obvious equivalents of polyolefin.

In fact, the patent application discloses that polyolefin is not an obvious equivalent of the claimed materials. Paragraphs 3 and 4 of the Background of the Invention section of the present patent application state that in the prior art, polypropylene has been used to form a film that is then adhered to a heat exchanger once the film is formed. However, a problem with the polypropylene film is that it can only be used at relatively lower temperatures. In the prior art, this process can be used to apply a film with a higher temperature resistance, but this is expensive. The claimed invention, as further stated in paragraph 21 of the specification, overcomes this problem by allowing a film with a high temperature resistance to be formed on the heat exchanger. Therefore, higher temperature resistance films (such as polyester, polyetherimide, polyethersulfone, polysufone or polyimde) are not equivalent to a lower temperature film, such as polypropylene. Polypropylene is further differentiated from the claimed films in paragraph 19 of the specification that states that polyolefin (a polypropylene) needs an additional malcate or tackifier mixed with it to provide proper adhesion to the heat exchanger when applied to the heat exchanger. That is, polypropylene must be further processed before being applied to the heat exchanger. This further shows that the claimed materials are not equivalents to polypropylene. The claimed invention is not obvious, and Applicant respectfully requests that the rejection be withdrawn.

There is also no suggestion to replace the polypropylene layer of Boah with a layer of polyester, polyetherimide, polyethersulfone, polysufone or polyimide as claimed. It is impermissible to modify a base reference in a manner that defeats the benefits achieved by the teachings of the reference. Boah teaches the use of a polypropylene layer. To eliminate the polypropylene layer and replace it with a layer of polyester, polyetherimide, polyethersulfone, polysufone or polyimide would defeat the benefits achieved by Boah. There is no support that using a layer of polyester, polyetherimide, polyethersulfone, polysufone or polyimide would satisfy all of the problems solved by using the polypropylene layer of Boah or would perform in any way better than the structure already provided by Boah.

The Examiner's rejection is clearly a use of hindsight reconstruction. It is impermissible to engage in hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from the references to fill the gaps. The references themselves must provide some teaching whereby the applicant's combination would have been obvious. In re Gorman, 933 F.2d 982, 986, 18USPQ2d 1885, 1888 (Fed. Cir. 1991). There simply is no suggestion in the references, or in the prior art as a whole, that suggests the desirability of using these materials. Nothing in Boah would have led one of ordinary skill in the art to believe that Boah's polypropylene layer was in any way deficient for Boah's purposes or was in need of modification. One of ordinary skill in the art would have found no reason, suggestion, or incentive for modifying the heat exchanger of Boah other than through the luxury of hindsight accorded one who first viewed Applicant's disclosure. This is not a proper basis for a rejection under 35 U.S.C. 103. The claimed invention is not obvious, and Applicant requests that the rejection be withdrawn.

Finally, there is no disclosure, suggestion or teaching in using a melted polymer as claimed. The Examiner states that these are product by process claims that are limited by the product itself. The Examiner continues that the heat exchanger as claimed is the same as or obvious from the heat exchanger of Boah. Applicant respectfully disagrees. The claimed invention requires a melted polymer that forms a film on a heat exchanger. Boah does not disclose, suggest or teach that the polypropylene layer is applied to the blank 61 as a melted polymer as claimed. The claims recite a material applied in a first state (a melted state) that form a second stated (a film). These are structural differences. The claimed invention is not obvious, and Applicant respectfully requests that the rejection be withdrawn.

Thus, claims 27-46 are in condition for allowance. No additional fees are seen to be required. If any additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

Respectfully Submitted,

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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, (703) 872-9306 on July 6, 2005.

Amy Spaulding